

ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

City of Port Isabel, *et al.*,

Petitioners,

v.

No. 23-1174

Federal Energy
Regulatory Commission,

Respondent.

PROVISIONAL CERTIFICATE AS TO

PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rules 27(a)(4) and 28(a)(1), proposed intervenor Rio Bravo Pipeline Company, LLC (“Rio Bravo”) submits this provisional certificate as to parties, rulings, and related cases.

1. Parties and Amici. This case involves a petition for review filed directly in this Court. Accordingly, the requirement of D.C. Circuit Rule 28(a)(1) to list the parties, intervenors, and *amici* that appeared below does not apply. The parties, *amici*, and entities moving to intervene and to participate as *amici* in this Court are listed below.

Petitioners

The Petitioners are the City of Port Isabel, the Carrizo Comecrudo Tribe of Texas, and Sierra Club.

Respondent

The respondent is the Federal Energy Regulatory Commission (“Commission”).

Intervenors

Rio Bravo has moved for leave to intervene in support of Respondent.

Amici

At present, no entities have moved for leave to participate as *amici curiae*.

Circuit Rule 26.1 Disclosures for Movant. Rio Bravo has filed a separate Corporate Disclosure Statement together with its Motion to Intervene and this Provisional Certificate.

2. Ruling Under Review. The Petitioners seek review of the following issuance of the Commission: Order on Remand and Amending Section 7 Certificate, *Rio Grande LNG, LLC*, 183 FERC ¶ 61,046 (Apr. 21, 2023) (“*Rio Grande* Remand Order”).

3. Related Cases. In 2020, several of the Petitioners here filed a petition for review challenging the Commission’s orders granting authorizations to Rio Bravo and Rio Grande LNG, LLC under Sections 3 and 7 of the Natural Gas Act.

See Rio Grande LNG, LLC, 169 FERC ¶ 61,131 (2019), *on reh'g*, 170 FERC ¶ 61,046 (2020). That petition for review was docketed in this Court as case 20-1045. The Court subsequently ordered that argument in case 20-1045 be held on the same day as the argument in cases 20-1093 and 20-1094, which were appeals concerning orders issued by the Commission related to two different projects—the Annova LNG project and the Texas LNG project, respectively.

On August 3, 2021, this Court entered an opinion and a per curiam judgment that dismissed the petition for review in case 20-1093 as moot, and denied in part while granting in part the petitions for review in cases 20-1045 and 20-1094. The FERC orders under review in cases 20-1045 and 20-1094 were remanded to the Commission without vacatur for further proceedings. *See* 6 F.4th 1321 (opinion); 2021 WL 3716769 (Aug. 3, 2021) (per curiam).

On remand from case 20-1045, the Commission issued the *Rio Grande* Remand Order, which Petitioners are now challenging in this case (23-1174).

Although it does not appear to meet this Court's definition of "related case" in Rule 28(a)(1)(C), for completeness Rio Bravo notes that on remand from case 20-1094, the Commission issued a separate order concerning the Texas LNG project. *See* Order on Remand, *Texas LNG Brownsville LLC*, 183 FERC ¶ 61,047 (2023) ("Texas LNG Remand Order"). That order involves a different infrastructure project, and arises from a different FERC docket and different

administrative record. The same group of Petitioners who filed this lawsuit have challenged the *Texas LNG* Remand Order in case 23-1175, which is also styled *City of Port Isabel et al. v. FERC*. Case 23-1175 remains pending as of the time of this filing.

Although it does not appear to meet the definition of a “related case” in this Court’s Rule 28(a)(1)(C), Rio Bravo notes for completeness that, in 2020, several of the Petitioners here filed a petition for review challenging the Commission’s approval of certain changes to the design of the Rio Grande LNG project. This Court docketed that petition for review as case 20-1491. In August 2021, this Court granted the Petitioners’ motion to voluntarily dismiss case 20-1491.

At this time, counsel is unaware of any other related cases within the meaning of D.C. Circuit Rule 28(a)(1)(C).

Date: August 9, 2023

Respectfully submitted,

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